

§ 32C-1-120. Liability for refusal to accept acknowledged power of attorney.

(a) A person is not required to accept, and is not liable for refusing to accept, a power of attorney that has not been duly acknowledged.

(b) Except as otherwise provided in this section:

- (1) No later than seven business days after presentation of an acknowledged power of attorney for acceptance, a person shall (i) accept the power of attorney; (ii) refuse to accept the power of attorney pursuant to subsections (c) and (d) of this section; or (iii) request a certification, a translation, or an opinion of counsel pursuant to G.S. 32C-1-119(d).
- (2) If a person requests a certification, a translation, or an opinion of counsel pursuant to G.S. 32C-1-119(d), then within five business days after receipt of the requested items in reasonably satisfactory form, the person shall either (i) accept the power of attorney or (ii) refuse to accept the power of attorney pursuant to subsections (c) and (d) of this section.
- (3) A person may not require an additional or different form of power of attorney if the power of attorney presented reasonably appears to authorize the agent to conduct the business the agent desires to conduct.

(c) A person is not required to accept an acknowledged power of attorney if any of the following circumstances exist:

- (1) The person is not otherwise required to engage in a transaction with the principal in the same circumstances.
- (2) Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with applicable federal law.
- (3) The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power.
- (4) A request for a certification, a translation, or an opinion of counsel pursuant to G.S. 32C-1-119(d) is refused.
- (5) The person requesting a certification, a translation, or an opinion of counsel pursuant to G.S. 32C-1-119(d) does not receive the requested items in reasonably satisfactory form within a reasonable period of time.
- (6) The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel pursuant to G.S. 32C-1-119(d) has been requested or provided.
- (7) The person has reasonable cause to question the authenticity or validity of the power of attorney or the appropriateness of its exercise by the agent.
- (8) The agent or principal has previously breached any agreement with the person, whether in an individual or fiduciary capacity.
- (9) The person makes, or has actual knowledge that another person has made, a report to the local adult protective services office or law enforcement stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(d) Without limiting the generality of subsection (c) of this section, nothing in this Chapter requires a person to do any of the following:

- (1) Open an account for a principal at the request of an agent if the principal is not currently a customer of the person.
- (2) Make a loan to the principal at the request of the agent.
- (3) Permit an agent to conduct business not authorized by the terms of the power of attorney, or otherwise not permitted by applicable statute or regulation.

(e) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to all of the following:

- (1) A court order mandating acceptance of the power of attorney.
- (2) Liability for reasonable attorney's fees and costs incurred in any action or proceeding that mandates acceptance of the power of attorney.
- (3) Any other remedy available under applicable law.

(f) The principal, the agent, or a person presented with a power of attorney may initiate a proceeding to determine whether and to what extent acceptance of a power of attorney shall be mandated. The court may award costs and expenses, including reasonable attorneys' fees in its discretion, but may award attorneys' fees to the agent only where the proceeding has substantial merit.

(g) Nothing in this Chapter amends or modifies the rights of banks and other depository institutions to terminate any deposit account in accordance with applicable law.

(h) A person who is presented with a power of attorney shall not be deemed to have unreasonably refused to accept the power of attorney solely on the basis of failure to accept the power of attorney within seven business days.

(i) A person who promptly requests a certification, a translation, or an opinion of counsel pursuant to G.S. 32C-1-119(d) is not deemed to have unreasonably refused to accept a power of attorney prior to receipt of the requested items in reasonably acceptable form. (2017-153, s. 1.)